

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ELGRET L. BURDEX,)	
)	
Plaintiff,)	
vs.)	NO. CIV-10-119-D
)	
PHILLIP SMITH, et al.,)	
)	
Defendants.)	

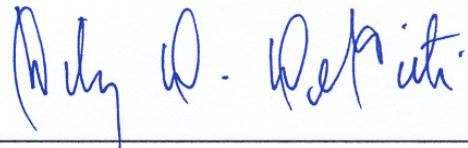
O R D E R

Plaintiff, a state prisoner appearing *pro se*, brought this action pursuant to 42 U. S. C. § 1983. The matter was referred to United States Magistrate Judge Doyle W. Argo for initial proceedings in accordance with 28 U. S. C. § 636(b)(1)(B). Defendants filed a motion to dismiss for lack of prosecution, and Plaintiff responded by filing a motion for appointment of counsel.

On April 18, 2012, the Magistrate Judge filed a Report and Recommendation [Doc. No. 97] in which he recommended the Court deny the motion to appoint counsel, grant the motion to dismiss, and dismiss this action without prejudice. In the Report and Recommendation, the Magistrate Judge advised Plaintiff of his right to file objections to the Report and Recommendation, and he scheduled a May 8, 2012 deadline for filing such objections. He also expressly cautioned Plaintiff that his failure to timely object would constitute a waiver of his right to seek appellate review of the findings and conclusions in the Report and Recommendation.

Plaintiff's deadline has expired, and he has not objected to the Report and Recommendation, nor has he sought an extension of time in which to file objections. Accordingly, the Report and Recommendation [Doc. No. 97] is adopted as though fully set forth herein. Plaintiff's motion for appointment of counsel [Doc. No. 95] is DENIED. Defendants' motion to dismiss [Doc. No. 94] is GRANTED. This action is dismissed without prejudice.

IT IS SO ORDERED this 22nd day of May, 2012.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE